

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RON KICZENSKI, No. CIV-S-03-2305 MCE/GGH PS

Plaintiff,

v.

ORDER

JOHN ASHCROFT, ET AL.,

Defendant.

On December 9, 2004, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within ten days. Defendant filed objections on December 16, 2004, plaintiff filed objections and a reply to defendant's objections on December 22, 2004, and they were considered by the district judge.

This court reviews de novo those portions of the proposed findings of fact to which objection has been made.

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1 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business
2 Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455
3 U.S. 920 (1982). As to any portion of the proposed findings of
4 fact to which no objection has been made, the court assumes its
5 correctness and decides the motions on the applicable law. See
6 Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The
7 magistrate judge's conclusions of law are reviewed de novo. See
8 Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th
9 Cir. 1983).

10 The court has reviewed the applicable legal standards and,
11 good cause appearing, concludes that it is appropriate to adopt
12 the Proposed Findings and Recommendations in full. Accordingly,
13 IT IS ORDERED that:

14 1. The Proposed Findings and Recommendations filed December
15 9, 2004, are ADOPTED;

16 2. Defendants' motion for summary judgment is denied;

17 3. Plaintiff's Ninth Amendment claim is dismissed with
18 prejudice; and

19 4. The pretrial conference and trial are rescheduled as
20 follows: Pretrial conference is set for September 19, 2005 at
21 2:30 p.m. before the Honorable Morrison C. England, Jr. Court

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1 trial is set for November 2, 2005 at 9:00 a.m. before the
2 Honorable Morrison C. England, Jr.

3 DATED: April 18, 2005.

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7 MORMISON C. ENGLAND, JR
8 UNITED STATES DISTRICT JUDGE
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